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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,736	11/21/2003	Daniel M. Bacza	030459 (BLL-0131)	1814
36192	7590	06/09/2006	EXAMINER	
CANTOR COLBURN LLP - BELLSOUTH 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			SHERMAN, STEPHEN G	
			ART UNIT	PAPER NUMBER
			2629	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,736

Applicant(s)

BAEZA, DANIEL M.

Examiner

Stephen G. Sherman

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the pressure sensor (Paragraph [0021]) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites the limitation “an equalizing device disposed in the water tight main body,” however, there is insufficient explanation in the specification to enable one skilled in the art to make and/or use the invention. The closest support in the specification for this limitation occurs in paragraph [0021] located on page 6 of the specification where it is recited that: “The auto-equalizing device 50 is implemented by hardware and/or software and works by comparing the voltage gradient against the pressure gradient reported by the pressure sensor, and an offset current relative to the depth is computed. The offset current is updated as the depth changes. Accordingly, writing is detected with reference to the offset current and the writing pad 20 is able to work underwater even as the water pressure varies.” This explanation is insufficient in that it does not allow one of ordinary skill in the art to ascertain how updating the offset

current as the depth changes allows the auto-equalizing device to equalize the pressure in the gap. Furthermore the specification states that "The auto-equalizing device 50 is implemented by hardware and/or software and works by comparing the voltage gradient against the pressure gradient reported by the pressure sensor," however, the pressure sensor is not shown in the drawings, nor is it explained how the auto-equalizing device would receive the pressure gradient from the pressure sensor and how comparing the voltage gradient to the pressure gradient results in a computed offset current.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Redmayne (US 2002/0126102).

Regarding claim 17, Redmayne discloses a method for capturing site data, the method comprising:

activating an apparatus (Figure 1, the device would have a power button in order to allow it to be used.), the apparatus includes:

a watertight main body (Figure 1 and paragraph [0024].);

a display screen disposed on the main body (Figure 1, display 12 as described in paragraph [0012].); and a writing pad incorporated as part of the display screen (Figure 5 and paragraph [0012] explain that touch screen 18 is incorporated as part of the display 12.), wherein the writing pad receives information by applying a pressure to the writing pad and the writing pad is adapted to function in a harsh environment (Paragraphs [0012] and [0024] explain that the device is water proofed, meaning that it can function in a harsh environment, and that a user would touch the screen, i.e. apply pressure, to input data.);

alternating between a first mode and a second mode (Paragraphs [0020]-[0022] explain that the device operates in an input and output modes, where the display outputs information and the touch screen allows the input of information, and in one mode the input surface detects if the screen has been touch and in a second mode the function associated with the area of the touch surface is executed.); and

inputting information through the writing pad (Paragraph [0021] explains that when the touch surface is touched, information is input through the touch surface.).

Regarding claim 19, Redmayne discloses the method of claim 17, further comprising interpreting the information (Paragraph [0020] explains that the touch panel interprets the points on the screen which are touched.).

R ***garding claim 21***, Redmayne discloses the method of claim 17, further comprising selecting options (Paragraph [0014] explains that the different buttons can be located on the touch screen allowing for different options to be selected.).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 18 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Redmayne (US 2002/0126102) in view of Nehemiah et al. (US 5,956,291).

Regarding claim 18, Redmayne discloses the method of claim 17.

Redmayne fails to teach that the method further comprises downloading the information to a personal computer.

Nehemiah et al. discloses of a hand-held unit which is capable to transmitting information to another hand-held unit or other device (Figure 1 and column 3, lines 24-32 and 50-55 explain that the hand-held device 20 can be used to communicate with other hand-held devices similar to it, and since the hand-held device functions as a dive computer, the examiner interprets that this communication would be the hand-held unit, i.e. computer, downloading information from the other hand-held unit.).

Therefore it would have been obvious to “one of ordinary skill” in the art at the time the invention was made to allow the input apparatus taught by Redmayne to communicate with other input devices as taught by Nehemiah et al. in order to allow for a user to communicate and share information with another user.

Regarding claim 20, Redmayne discloses the method of claim 17.

Redmayne fails to teach that the first mode is a dive mode and the second mode is a write mode.

Nehemiah et al. discloses of an apparatus which operates in a writing mode and a diving mode (Column 6, line 55 to column 7, line 21 explain that there is a writing mode and a control mode, where the examiner interprets that since the diver would be in the water and diving with the apparatus the control mode could also be called a “dive mode” since the user is diving when the apparatus is functioning.).

Therefore it would have been obvious to "one of ordinary skill" in the art at the time the invention was made to use the teachings of Nehemiah et al. that a device can contain a writing mode and diving mode as the first and second modes with the apparatus taught by Redmayne in order to allow for the device to operate underwater and still allow for the input of information.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen G. Sherman whose telephone number is (571) 272-2941. The examiner can normally be reached on M-F, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SS

6 June 2006



RICHARD MIERPE
SUPERVISORY PATENT EXAMINER
JUN 06 2006